

Chapter 15
Federal Agency Comments
on the 2000 REIR/SEIS



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3201

November 20, 2000

Rob Schroeder
U.S. Bureau of Reclamation
Central California Area Office
7794 Folsom Dam Road
Folsom, CA 95630

Dear Mr. Ladensack:

The Environmental Protection Agency (EPA) has reviewed the Draft Recirculated Environmental Impact Report/Supplemental Environmental Impact Statement for the East Bay Municipal Utility District Supplemental Water Supply Project (SCH#1996022035), Sacramento, San Joaquin, and Contra Costa Counties, California (CEQ# 000337, ERP# IIR-K28019-CA). Our review is pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act (CAA).

In 1998 EPA reviewed the Draft Environmental Impact Statement (DEIS) for this project and assigned the DEIS a rating factor of EO-2, *Environmental Objections - Insufficient Information*. One of our primary objections was to the narrow range of alternatives analyzed in the DEIS. The Supplemental Environmental Impact Statement (SEIS) presents five new alternatives, Alternatives 4 through 8. Like Alternatives 2 and 3 presented in the DEIS, each of the new alternatives calls for the transport of additional water supply to the Mokelumne Aqueduct via new pipelines. Alternatives 4 through 8 vary primarily in terms of the location of the new intake system and the alignments for the new water transportation pipelines. In addition, Alternative 4 calls for groundwater banking and sale of water to third parties as part of a conjunctive use program in Sacramento and San Joaquin counties. Alternative 8 calls for an "advanced" water treatment. A Preferred Alternative is not identified. The new alternatives are:

Alternative	Site of New Intake
Alternative 4: EBMUD-Only Lower American River Delivery	"Site 5" on the lower American River
Alternative 5: Sacramento River Delivery	Sacramento River immediately downstream of its confluence with the lower American River
Alternative 6: Frezport East Delivery	Sacramento River, upstream of the Frezport Bridge
Alternative 7: Frezport South Delivery	Sacramento River, upstream of the Frezport Bridge
Alternative 8: Bixler Delivery	Delta on Indian Slough, at Bixler

EPA commends EBMUD and the Bureau of Reclamation for developing new alternatives. In addition, we are pleased to see that four of the five new alternatives include intakes at sites that are below the confluence of the Sacramento and American Rivers. We also applaud EBMUD and the Bureau of Reclamation's statement of commitment to mitigation measures for this project.

While we believe the development of new alternatives greatly benefits the public and the decision-making process, we are concerned that not enough detail is provided on several of the alternatives to support well-informed decision-making. Based on our review and this concern, we have rated the SEIS an EC-2, *Environmental Concerns - Insufficient Information*. Since several objections raised by EPA on the DEIS were not addressed in the SEIS, EPA's rating of EO-2, *Environmental Objections - Insufficient Information*, on the DEIS still stands. Please see the attached EPA Rating Factors for a description of our rating system.

EPA is primarily concerned with the level of detail and analysis presented in Alternatives 4 and 8, and we strongly recommend that the Final Environmental Impact Statement (FEIS) include a more thorough analysis of these alternatives. In this vein, we also note that wetlands in the project area have not been delineated, a cumulative impact analysis on wetland resources has not been performed, and proposed mitigation is vague. We continue to be very concerned about the potential growth inducing effects of this project in the EBMUD service area, and, as discussed in our 1998 comments on the DEIS, maintain that this project must support CVPIA and CAI PRD ecosystem restoration goals. We also highly recommend a discussion of EBMUD and Bureau of Reclamation's efforts to protect and enhance the water quality of the water body - (the American River, Sacramento River, or the Delta - selected as the source of drinking water for this project. Please see the attached Detailed Comments for a discussion of our concerns and recommendations.

We appreciate the opportunity to review this Draft Supplemental EIS. When the Final EIS is completed, please send two copies to me at the address above. If you have any questions or comments, please feel free to contact me or the primary staff working on this project, Nova Blazek (415-744-2089) or Laura Fujia (415-744-1601).

Sincerely,

Deanna Wiseman, Deputy Director
Cross Media Division

cc: Kurt Ladensack, EBMUD

Attach: EPA Rating Factors
EPA Detailed Comments

SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

ENVIRONMENTAL IMPACT OF THE ACTION

"LO" (Lack of Objections)

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

"EC" (Environmental Concerns)

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

"EO" (Environmental Objections)

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

"EU" (Environmentally Unsatisfactory)

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

ADEQUACY OF THE IMPACT STATEMENT

Category 1" (Adequate)

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and three of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

"Category 2" (Insufficient Information)

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

"Category 3" (Inadequate)

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NHPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment"

U.S. EPA DETAILED COMMENTS SEIS: EBMUD SUPPLEMENTAL WATER SUPPLY PROJECT

ALTERNATIVE 4

Alternative 4: EBMUD-Only Lower American River Delivery is based on the City of Sacramento and Sacramento County's "Modified Proposal" (Appendix A). This proposal includes 22 elements. Among these elements the "Modified Proposal" calls for groundwater banking and sale of water to third parties as part of a conjunctive use program in Sacramento and San Joaquin counties. Both of these activities would require an amendment to the Judge Hodge Decision. In addition, the SEIS states that elements 2 through 7, 10, 12, 15, and 18 through 20 of the "Modified Proposal" are "subject to further negotiation between EBMUD and the Sacramento Parties" (p. 2-3). A high level of uncertainty surrounds Alternative 4 because 1) a number of the elements of the alternative are open to further negotiation, 2) Judge Hodge would need to agree to amend his order to allow banking and marketing of American River water, and 3) the information presented on groundwater banking and conjunctive use is very general in nature. Although the SEIS states that further environmental documentation for groundwater storage would be undertaken if this alternative is selected, the FEIS should include a higher degree of analysis on these three aspects of Alternative 4.

* Recommendation:

- 1) Provide greater detail on the elements of Alternative 4 that are subject to negotiation, including potential opportunities and barriers to successful negotiation;
- 2) discuss the likelihood that Judge Hodge would amend his order, as outlined in element #3, and the project ramifications if the order is not amended;
- 3) provide greater detail on the physical constraints and opportunities for groundwater banking in Sacramento and San Joaquin counties; include an analysis of the success rate of other areas where groundwater banking has been implemented and the likelihood of success for groundwater banking in Sacramento and San Joaquin counties.

ALTERNATIVE 8

Alternative 8 calls for the intake of Delta water at Indian Slough, which will pass through an "advanced treatment process." This "advanced treatment process would result in the creation of a brine reject stream that would require disposal" (p. 2-24).

It is EPA's understanding that there are other drinking water suppliers who take delivery of water

RF1-1

RF2-1

in the area of Indian Slough, and these drinking water suppliers do not produce brine from their treatment process.

Recommendations:

- 1) Clearly discuss why brine is produced from the proposed treatment process and why other drinking water treatment processes used in the area, which do not produce brine, cannot be applied to this project;
- 2) Substantiate the statement that salinity is not readily controllable (p. 4-3).

SOURCE WATER QUALITY

The SEIS states that the American River is preferable to the proposed Sacramento River or Delta diversions as a source of drinking water because it is less vulnerable to contaminants that are currently regulated and those that will be regulated in the near future (Appendix B, p.6). This statement is based on the assumption that the American River will continue to be less vulnerable to contaminants. We are concerned about the level of protection provided to protect and enhance the water quality of the water body – the American River, Sacramento River, or the Delta – selected as the source of drinking water for this project.

- Recommendation:* Discuss current and planned activities by EBMUD and the Bureau of Reclamation to protect and enhance the water quality of the drinking water source selected for this project -- the American River, Sacramento River, or the Delta.

WETLANDS

As discussed in Chapter 7: Vegetation and Wetland Resources, wetlands in the project study area have not been delineated (p. 7-2). Impacts to wetland resources cannot be adequately analyzed without this delineation, as is evidenced by the absence of a discussion of the cumulative impacts to wetland resources (p. 7-5 to 6) and the very vague mitigation proposed for project impacts to vernal pools (p. 8-5).

Recommendation:

- 1) Delineate wetlands in the project area and include this information in the FEIS;
- 2) thoroughly analyze project impacts to wetlands, including cumulative impacts;
- 3) provide detailed mitigation for impacts to wetland resources, including vernal pools.

SUSTAINABILITY

Growth Effects

The SEIS identifies the potential growth effects within the EBMUD service area as an area of controversy surrounding this project (S-15), but the SEIS does not address this issue.

- Recommendation:* EPA strongly urges EBMUD and the Bureau of Reclamation to analyze and address the potential growth effects of this project.

CVPIA and CALFED

The SEIS states that since CALFED is a "long-term process," the specific goals of CALFED are not considered in the evaluation of this project (3-5).

- Recommendation:* CVPIA and CALFED are critical to the management of California's water resources. EPA strongly urges EBMUD and the Bureau of Reclamation to include CVPIA and CALFED ecosystem restoration goals in the evaluation of this project.

RF1-5

RF1-6

RF1-3

RF1-4

Federal Agencies

Response to Comments of the U.S. Environmental Protection Agency, Region 9

Note: The comments contained in U.S. EPA's cover letter summarize the attached "Detailed Comments." To minimize redundancy, only the detailed comments have been responded to here.

RF 1-1, Deanna Wieman, U.S. Environmental Protection Agency

It is not possible at this point in time to provide greater detail on the elements of Alternative 4 that remain subject to negotiation. Preliminary discussions have occurred on these points, but detailed negotiations have not taken place. There is uncertainty regarding the institutional feasibility of Alternative 4, and substantial discussions among the parties would be required to address the issues raised in the Modified Proposal.

EBMUD and Reclamation are not able to meaningfully discuss the likelihood that Judge Hodge would amend his order. Such an amendment would be required to implement the groundwater element of the Modified Proposal and possibly to allow an EBMUD delivery at a downstream location on the lower American River. The likelihood that the order would be amended would be improved if EBMUD, the City of Sacramento, the County of Sacramento, and Reclamation agree on the terms of such an amendment.

Groundwater banking is considered to be technically feasible in both Sacramento and San Joaquin Counties. EBMUD has conducted studies in the San Joaquin County area and determined that the groundwater basin is appropriate for aquifer storage and recovery. Although conditions likely differ somewhat in south Sacramento County, there is no reason, based on available information, to believe that using the groundwater basin would

not be technically feasible. See also the response to the "San Joaquin County Conjunctive Use" major issue in Chapter 3 of this document.

RF 1-2, Deanna Wieman, U.S. Environmental Protection Agency

Two levels of treatment are considered in the 2000 REIR/SEIS for each non-American River alternative: 1) complying with all drinking water regulations, and 2) reasonably matching current finished water quality. For Alternative 8, because of differences in salinity and other constituents between the existing EBMUD Mokelumne River source and a new Delta source, the treatment option of reasonably matching current finished water quality would require implementation of microfiltration and reverse osmosis. These processes would result in a reject stream of concentrated brine, which would require disposal. The treatment option involving complying with all drinking water regulations would not result in the production of a brine waste stream, but the finished water quality would be substantially different from EBMUD's current Mokelumne River supply.

The statement on the last full paragraph of page 4-3 of the 2000 REIR/SEIS is intended to explain that EBMUD has little ability to control the quality of the source of water that would be delivered. Under the treatment option of complying with all drinking water regulations, salinity at the intakes, and therefore the treated water, would vary depending on flow conditions in the waterways. Under the treatment option of reasonably matching current finished water quality, salinity in the treated water would be essentially the same as the current EBMUD supply and would not likely have an effect on EBMUD's terminal reservoirs.

RF 1-3, Deanna Wieman, U.S. Environmental Protection Agency

Reclamation and EBMUD have limited ability to protect and enhance the watersheds of the American River, Sacramento River, or the Delta. To the extent that the agencies have jurisdiction and

control, they are taking actions to help ensure water quality protection. As noted in Table 2 of Appendix B to the 2000 REIR/SEIS, those water sources that have larger watersheds and are further downstream are considered to be at higher risk and to have higher vulnerability to water quality impairment.

RF 1-4, Deanna Wieman, U.S. Environmental Protection Agency

As noted on page 7-1 of the 2000 REIR/SEIS, the alternative alignments were initially evaluated by reviewing existing information on biotic resources in the project area, including wetlands, and by reconnaissance surveys of pipeline alignments. These surveys were conducted by qualified biologists with substantial familiarity with the project areas. Prior to the surveys, all the wetland areas were identified. For those areas that could not be accessed or observed directly, information was obtained by analyzing existing information and aerial photographs of these areas.

Wetland impacts under each alternative are largely associated with pipeline construction. As such, they are considered to be temporary and limited in extent. Mitigation Measures 7-4a, 7-4b, and 7-4c require EBMUD and Reclamation to identify wetlands, avoid and minimize wetland impacts, and compensate for any unavoidable effects. The magnitude of wetland impacts under each alternative is likely to be similar to those described in Chapter 7 of the 1997 Draft EIR/EIS.

RF 1-5, Deanna Wieman, U.S. Environmental Protection Agency

Potential growth effects within the EBMUD service area were fully described in Chapter 18 of the 1997 Draft EIR/EIS. That analysis has been incorporated by reference into the 2000 REIR/SEIS.

RF 1-6, Deanna Wieman, U.S. Environmental Protection Agency

Reclamation and EBMUD both strongly support the CVPIA and CALFED processes and have been and will continue to be active participants and contributors to those processes. See also response

to the “Relationship to CALFED” major issue in Chapter 3 of this document.